



American Jail Association

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CC 92-77

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September 8, 1994

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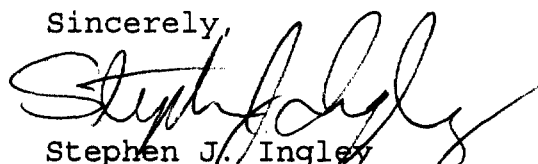
William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street
Washington, D.C. 20554

Dear Secretary Caton:

Enclosed for your review and information, is a copy of a July 26, 1994 letter sent to FCC Chairman Reed Hundt regarding the American Jail Association's opposition to "Billed Party Preference."

If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,


Stephen J. Ingley
Executive Director

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Future Conference Sites

Charlotte, North Carolina - April 30 - May 4, 1995
St. Louis, Missouri - May 5 - May 9, 1996



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TOO LATE TO CALL

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The Honorable Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RE: CC Docket No. 92-77 - Billed Party Preference

Dear Chairman Hundt:

The American Jail Association (AJA) strongly opposes the application of Billed Party Preference (BPP) at jail facilities. BPP will destroy the commendable achievements jail professionals have made over the last decade to encourage frequent telephone use by inmates, to prevent criminal activity over the telecommunications network, and to develop needed and effective inmate programs.

AJA is a national, nonprofit association whose membership consists mainly of sheriffs, jail administrators, and corrections officers. There are more than 3,200 jails nationwide, housing some 450,000 inmates on any given day, and processing 20 million admissions and releases every year. We are committed to ensuring that our nation's jails are orderly, secure, and effective rehabilitation centers. Our members have an important public mandate to maintain a safe and secure environment within their facilities, and to protect the general public outside of their facilities from criminal activity by inmates. The application of BPP at jail facilities will severely limit our members' efforts to fulfill these duties.

You must understand that the purpose and use of inmate telephones bears little resemblance to the purpose and use of telephones by the general public. Generally, the use of a telephone by an inmate is a privilege, not a right. There are obvious reasons why this is the case. Our society will not tolerate a system that allows inmates to have free and open access to the telecommunications network. New crimes could be committed and old ones could be continued. Witnesses, judges, juries, and prosecutors could be intimidated, and victims could be harassed. For this reason, we do not allow inmates to use access codes to reach the carrier of their choice, nor are we required to allow such dialing under applicable FCC rulings.

At the same time, there are reasons why we want to encourage the use of

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the telephone by inmates, since frequent calling can be a positive rehabilitation tool. Indeed, frequent calling can encourage and strengthen positive relationships between inmates and their families--relationships that are vitally important for successful rehabilitation. Frequent calling can also help improve inmate morale which, in turn, encourages a disciplined and orderly jail environment and makes the corrections officer's already difficult job more manageable.

The goal, therefore, is to achieve a balanced system that encourages frequent inmate calling, but effectively controls that calling to protect the public from the abuse of the telephone by inmates for criminal purposes. Over the last decade, our members have been successful at implementing systems that achieve this goal. We do so through two required steps: (1) by routing inmate calling traffic to a single carrier that is qualified and equipped to handle inmate calls and who is contractually obligated to respond to our specific needs, and (2) by installing technologically-advanced inmate calling systems that allow frequent, but controlled, inmate calling. BPP is a direct assault to both of these precautionary measures.

Under the current system, inmate calling traffic is routed to a single carrier--one that knows the call is coming from a jail facility and one that generally automates call processing, or provides operators that are specifically trained, to thwart attempts by inmates to place prohibited calls. These carriers stay in daily contact with their contracted facility. This is an important reason why criminal telephone activity from inmate facilities can be detected and stopped at an early stage. For example, if an administrator receives information indicating that fraud or another crime has been, or is about to be, committed by an inmate through the use of the telephone, the administrator immediately informs the carrier who takes prompt action by either blocking specific numbers or denying service to the affected inmates by rejecting their Personal Identification Numbers (PINs).

Such responsive action could not be taken under BPP, since there could be dozens of different carriers that could carry inmate calls, none of whom will have any obligation to the facility. It would be impossible for every carrier to be in direct communication with every jail throughout the nation. And even if such

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communication was possible, carriers under BPP will not be under any obligation to respond to an administrator's request to block calls to specific numbers or deny service to particular inmates.

Under BPP, the jail administration will no longer have the right to contract with a carrier that the administration has determined -- in his or her discretion -- is best equipped and qualified to handle the calls from that particular facility. In fact, BPP will grant inmates the right to access the network of dozens of different carriers by coordinating that selection with outside accomplices. All it will take is for a single inmate to find an unsuspecting carrier or a small independent telephone company that is ill-equipped and untrained to handle inmate calls, and we submit that as the identity of that carrier or telephone company becomes widely known, there could be a major outbreak of telephone criminal activity from our jails.

Of course, the magnitude of this potential harm ultimately depends on whether inmate phones will still be available after BPP, and if so, to what extent. BPP would eliminate the financial base for specialized inmate calling systems and jeopardize the very existence of inmate phones. Your agency should note that not more than a decade ago, specialized inmate calling systems were generally not available to our nation's jails. Indeed, a good number of jails are in rural areas where the small independent local telephone companies refused to provide inmate phone service. Jails had no way to effectively control inmate calling at the facility except to require strict officer supervision of all inmate calls and to severely limit inmate access to what was frequently a single phone per institution. Indeed, it was not that long ago that families of inmates rarely, if ever, received a telephone call from their loved ones in a jail. And if they were so lucky to receive a call, inmates were forced to do so under the presence of a jail officer.

Recent advancements in technology, coupled with the advent of telecommunications competition, have changed that troubling condition. Inmate phone service providers have made it possible for administrators to provide equipment with the necessary controls that in turn, provide frequent and unsupervised inmate calling opportunities. BPP, however, is purposely designed to take away an inmate phone service provider's revenue base.

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In addition to the above, many of our nation's jails receive commissions from the telephone providers. Often, the revenues generated from the inmate telephone service are placed in what is known as an "Inmate Welfare Fund (IWF)." The revenues contained in this fund must be utilized in programs that benefit inmates. Examples of such programs are drug and alcohol treatment, literacy training, G.E.D., vocational, etc. BPP will eliminate telephone commissions paid to jails, which in turn, will eliminate many of the existing inmate programs, since these programs have no other funding source.

If we can emphasize any point, let it be this: We can only allow frequent inmate calling if that calling is controlled. **Our jails cannot afford to provide inmate telephone equipment that has the necessary controls without the assistance of inmate phone service providers.** Our nation's jails are in a state of financial crises. We are struggling to maintain sufficient funding for even our most basic needs. We simply cannot afford to purchase costly inmate calling systems on our own. If you take away the revenue stream supporting inmate phone service providers, we predict there will be few, if any, phones available for exclusive inmate use.

Despite our opposition to BPP, AJA agrees that inmate families should not have to pay unreasonable rates for inmate calls, the apparent reason why your agency is even considering applying BPP to inmate facilities. In fact, the positive effects of frequent inmate calling that administrators desire can only occur if the rates for inmate calls are affordable.

To the extent that the FCC is concerned that there are certain providers that are nevertheless charging unreasonable rates, the FCC should use its enforcement powers to directly regulate the rates of those providers. The FCC should not, however, adopt BPP in an indirect attempt to regulate the rates for inmate calls since, as explained above, BPP will jeopardize security and potentially eliminate the very inmate calling systems from which those calls are made. Indeed, should BPP be extended to inmate facilities, we suspect that whatever complaints about inmate calling rates your agency currently receives will be replaced by a much larger mountain of complaints. These complaints will be generated by angry inmate families who no longer can communicate frequently with their loved ones in jail facilities and from law abiding citizens who will become new victims of increased telephone fraud and crime.

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Honorable Reed E. Hundt, Chairman

We respect your agency's responsibility to regulate our nation's communications systems. As the Chairman of that agency, you no doubt have an awesome task. At the same time, please consider our membership's responsibility to manage and control our nation's jails. Ours is also an important task. BPP will take away important jail security and administration tools that assist us in the performance of our duties. Therefore, we urge that you do not extend BPP to jail facilities.

Sincerely,



Stephen J. Ingley
Executive Director

cc: The Honorable James H. Quello
The Honorable Andrew C. Barrett
The Honorable Rachelle B. Chong
The Honorable Susan Ness
AJA Board of Directors